

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERTA ELMORE,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT
OF CORRECTIONS, WASHINGTON
CORRECTIONS CENTER FOR WOMEN,
STEVEN HAMMOND, KENNETH
TAYLOR, JEFF PERRY, PAM SAARI, DR.
COLTER,

Defendants.

CASE NO. C13-5946 RJB-JRC

ORDER GRANTING PLAINTIFF'S
MOTION FOR AN EXTENSION OF
DISCOVERY AND SETTING A
REVISED SCHEDULING ORDER

The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and Magistrate Judge Rules MJR3 and MJR4.

Plaintiff asks the Court for sixty additional days to conduct discovery (Dkt. 16). Plaintiff asserts that she has had trouble getting medical records from the Washington State Department of Corrections (*id.*).

1 Defendants state that they do not oppose the request, as long as all other deadlines are
2 also moved back (Dkt. 17). Since the motion is unopposed, the Court need not wait for the June
3 13, 2014, noting date.

4 The Court grants plaintiff's request.

5 (1) Discovery

6 All discovery shall be completed by **August 8, 2014**. Service of responses to
7 interrogatories and to requests to produce, and the taking of depositions, shall be completed by
8 this date. Federal Rule of Civil Procedure 33(a) requires answers or objections to be served
9 within thirty (30) days after service of the interrogatories. The serving party, therefore, must
10 serve his/her interrogatories at least thirty (30) days before the deadline in order to allow the
11 other party time to answer.

12 (2) Dispositive Motions

13 Any dispositive motion shall be filed and served on or before **October 3, 2014**. Pursuant
14 to LCR 7(b), any argument being offered in support of a motion shall be submitted as a part of
15 the motion itself and not in a separate document. The motion shall include in its caption
16 (immediately below the title of the motion) a designation of the date the motion is to be noted for
17 consideration upon the Court's motion calendar. Dispositive motions shall be noted for
18 consideration on a date no earlier than the fourth Friday following filing and service of the
19 motion. LCR 7(d)(3).

20 All briefs and affidavits in opposition to any motion shall be filed and served pursuant to
21 the requirements of Rule 7 of the Federal Rules of Civil Procedure and LCR 7. The party
22 making a motion may file and serve a reply to the opposing party's briefs and affidavits. Any
23
24

1 reply brief shall also be filed and served pursuant to the requirements of Rule 7 of the Federal
2 Rules of Civil Procedure and LCR 7.

3 Defendants are reminded that they MUST serve *Rand* notices, in a separate document,
4 concurrently with motions to dismiss and motions for summary judgment so that *pro se* prisoner
5 plaintiffs will have fair, timely and adequate notice of what is required of them in order to
6 oppose those motions. *Woods v. Carey*, 684 F.3d 934, 941 (9th Cir. 2012). The Ninth Circuit
7 has set forth model language for such notices:

8 A motion for summary judgment under Rule 56 of the Federal Rules of
9 Civil Procedure will, if granted, end your case.

10 Rule 56 tells you what you must do in order to oppose a motion for
11 summary judgment. Generally, summary judgment must be granted when
12 there is no genuine issue of material fact – that is, if there is no real
13 dispute about any fact that would affect the result of your case, the party
14 who asked for summary judgment is entitled to judgment as a matter of
15 law, which will end your case. When a party you are suing makes a
16 motion for summary judgment that is properly supported by declarations
17 (or other sworn testimony), you cannot simply rely on what your
18 complaint says. Instead, **you must set out specific facts in declarations,
19 depositions, answers to interrogatories, or authenticated documents,
20 as provided in Rule 56(e), that contradict the facts shown in the
21 defendant's declarations and documents and show that there is a
22 genuine issue of material fact for trial. If you do not submit your own
23 evidence in opposition, summary judgment, if appropriate, may be
24 entered against you. If summary judgment is granted, your case will
be dismissed and there will be no trial.**

18 *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added. Defendants who fail to
19 file and serve the required *Rand* notices on the plaintiff may have their motion stricken from the
20 Court's calendar with leave to re-file.

21 (3) Joint Pretrial Statement

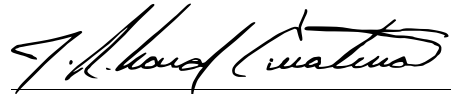
22 The parties are advised that a due date for filing a Joint Pretrial Statement may be
23 established at a later date pending the outcome of any dispositive motions.
24

(4) Proof of Service and Sanctions

All motions, pretrial statements and other filings shall be accompanied by proof that such documents have been served upon counsel for the opposing party or upon any party acting *pro se*. The proof of service shall show the day and manner of service and may be by written acknowledgment of service, by certificate of a member of the bar of this Court, by affidavit of the person who served the papers, or by any other proof satisfactory to the Court. Failure to comply with the provisions of the Order can result in dismissal/default judgment or other appropriate sanctions.

(5) The Clerk of Court is directed to send a copy of this Order to plaintiff and to counsel for defendants.

Dated this 10th day of June, 2014.



J. Richard Creatura
United States Magistrate Judge